

**MINUTES**

**MONTANA SENATE  
56th LEGISLATURE - REGULAR SESSION  
COMMITTEE ON BUSINESS AND INDUSTRY**

**Call to Order:** By **VICE CHAIRMAN MIKE SPRAGUE**, on March 5, 1999  
at 9:00 A.M., in Room 410 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Mike Sprague, Vice Chairman (R)  
Sen. Vicki Cocchiarella (D)  
Sen. Bea McCarthy (D)  
Sen. Glenn Roush (D)

**Members Excused:** Sen. John Hertel, Chairman (R)  
Sen. Dale Berry (R)  
Sen. Fred Thomas (R)

**Members Absent:** None.

**Staff Present:** Bart Campbell, Legislative Branch  
Mary Gay Wells, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 155, 3/2/1999  
HB 171, 3/2/1999  
Executive Action:

*{Tape : 1; Side : A; Approx. Time Counter : 0}*

**HEARING ON HB 155**

**Sponsor:** REP. ROBERT J. "BOB" PAVLOVICH, HD 37, BUTTE

**Proponents:** Claudia Clifford, Health Policy Specialist, Dept. of  
Insurance, State Auditor's Office  
Roger McGlenn, Independent Insurance Agents of MT

**Opponents:**    **Jacqueline Lenmark, American Insurance Assoc.**  
                  **Greg Van Horssen, State Farm**

**Opening Statement by Sponsor:**

**REP. ROBERT J. "BOB" PAVLOVICH, HD 37, BUTTE.** I bring **HB 155** which is disclosure on property-casualty insurance. This came about as a result of many complaints to the State Auditor's Office about the surprise of these people who found they could not renew their policy. They didn't realize that the policy could be canceled because of one accident. It came out of the House Business & Labor Committee with extensive amendments. There is an amendment **EXHIBIT (bus50a01)** that I would like to hand out. The State Auditor's Office will explain the amendments and more of the bill.

**Proponents' Testimony:**

**Claudia Clifford, Health Policy Specialist, Department of Insurance, State Auditor's Office.** This bill is a "truth in advertising" bill. I would like to hand out a fact sheet on this bill **EXHIBIT (bus50a02)**. It requires insurance carriers, property and casualty, to disclose to their customers beforehand that if there is a single loss of any size, regardless of fault, that may result in the cancellation or nonrenewal of coverage. If this is not their practice, then they would not need to put this disclosure in their policy. It does not prevent insurance companies from canceling or renewing. They may still do that. We just want consumers to know beforehand that this is a possibility. We have had consumers with just one accident and their company has not renewed their policy. Why is this a concern to consumers? They not only have lost their insurance coverage but when they go to get another policy with a different company they have to answer the question if they have ever had a policy canceled on them or not renewed. This makes it more difficult to get insurance.

There is an amendment that was passed out. When the bill was initially drafted, it was drafted to coverage property-casualty insurance and surety insurance. It was an oversight in the draft to include surety and the people who handle surety insurance were very concerned about this inclusion. Surety has a different nature than property-casualty. The complaints that we have received have been over property-casualty. Surety insurance is provided for short term losses or to assure that a project will be completed. Basically, it pays out if there is a loss and that often is just a one time situation. This bill does not address that kind of insurance. We agree with the industry that this bill should not include surety insurance.

**Roger McGlenn, Executive Director, Independent Insurance Agents****of MT.** We stand in support of **HB 155** with the amendments.

Surety was overlooked in the original draft. Surety should be removed from the bill. Mostly surety bonds are non-canceled anyway. They are often times required by statute to protect the taxpayer, i.e., for me to obtain a license as an insurance agent in Montana I have to have a surety bond to insure that I will faithfully perform my responsibilities under the law. If there is a loss, it is often times paid and that is the end of the surety bond. A contractor's faithful performance bond states that they will complete the job in the time that has been agreed upon. If they don't, the bond pays off for that job and that finishes that. Surety is often a credit function. The surety company is guaranteeing that credit of the person buying the insurance. Many contracts require the person who is buying the surety insurance pay back the company after the loss. Failure to strike surety from the bill would have a serious affect on availability of surety in Montana because it is a unique and specialized area of insurance. We urge you Be Concurred In for this bill with the amendments.

**{Tape : 1; Side : A; Approx. Time Counter : 5.3}**

**Opponents' Testimony:**

**Jacqueline Lenmark, American Insurance Association.** I am also speaking on behalf of **Mark Baker, National Association of Independent Insurers** and have written testimony for him

**EXHIBIT (bus50a03).** I stand here reluctantly because **REP.**

**PAVLOVICH** has worked hard to put this bill in a form that would be acceptable to the company. Unfortunately, we cannot support this legislation. The legislation is based on a wrong conceptual premise. That notion is the insured has an unlimited indefinite right to continue to insure with a specific company regardless of loss experience or other criteria. An insurance contract is between you and a company for a specified period of time. That contract doesn't contain within it any right to renew indefinitely. Our statutes already give consumers a protection in the sense that if there is a cancellation or a nonrenewal, notice will be given to the consumer that the nonrenewal will take place and that notice is required to be given with sufficient time so that the insurer can seek other insurance. There are so many factors that might come into a company's decision to nonrenew a given policy or a group of policies that have nothing to do with losses. But if one of those decisions were acted upon in a coincidental period of time where an insured has a single loss, there is a question now. . . a legal question that someone is going to have to resolve. Was the policy nonrenewed because of the single loss or was the policy

nonrenewed because of a different, unrelated business decision of the company? We think that this legislation is not good policy. It is going to require additional paper work by the insurance companies. They are going to have to re-work their notice forms, their application forms, etc. That will increase costs and in a state where we represent so small a market share in comparison with the national market, it does not seem prudent to add additional requirements to the insurer without giving the insured a truly substantial benefit which I don't believe will be realized. We would respectfully ask and on behalf of NAII this committee give a Do Not Concur recommendation.

**Greg VanHorssen, State Farm.** Ms. Lenmark mentioned a couple of concerns that State Farm concurs with. I would like to touch on a couple of philosophical points that this bill should raise. It has been indicated that this bill is a "truth in advertising" bill. There is an assumption behind that which is important and maybe erroneous. The assumption is that if this bill passes the companies that do have a policy of canceling after a single claim will issue the notice. The companies that do not have the policy of canceling after a single claim will not issue the notice and thereby creating information that will go to consumers to be of assistance. I think the reality of this bill is what we are doing here, i.e. telling the insurance companies that if you ever want to cancel or nonrenew based upon a single claim, then you have to issue this notice. I feel that every property-casualty insurer wants to reserve that right irrespective of what their policy is or is not. Based upon the language of this bill, every single property and casualty insurer will issue this notice and thereby not really giving any information to the consumers in the state. But at the same time increasing the cost. The final result based on this philosophy is no new information but increased costs. State Farm does not want to see that happen because the increased costs are passed along to the consumers. The second philosophical concern raised by this bill is if the consumers are advised that a company will cancel based on a single claim, as I believe every company will be bound to do to send out that notice, this will send a wrong message to the consumers. It may actually have the result of making the consumers more reluctant to make legitimate claims under their insurance policy simply because this notice has been issued. There are many claims that may not be made based on this type of notice for fear of being canceled. State Farm does oppose the bill and asks for a Do Not Concur In.

***{Tape : 1; Side : A; Approx. Time Counter : 11.8}***

**Questions from Committee Members and Responses:**

**SEN. BEA MCCARTHY** asked **Greg VanHorssen** that should this bill pass his company would put a rider that would give the company the privilege to cancel and that would become the company policy from now on. **Mr. VanHorssen** said that he felt the company would send out a notice as required by the bill saying "We reserve the right to cancel for a single claim." He did not think it would necessarily be written into a policy but it may have to be depending on how the people back in Bloomington, Illinois would interpret this statute.

**SEN. VICKI COCCHIARELLA** asked **Ms. Lenmark** to restate why her company objected to this bill. **Ms. Lenmark** said what the practical effect of this requirement would be for companies to make a statement more as a protective measure. They would state this in every policy which is not going to give the consumer any additional benefit. It is a right that the companies have now. What the companies are required to do now is: if they are going to nonrenew on any basis, then they have to give an appropriate period of notice. This bill is isolating one criteria and telling the companies that for this one criteria if they ever intend to use it, then set that forth in the application and policy. The difficulty is one can't sit here today and project, as a business, into the future every single criteria that might be used, appropriately. As an insurance company and being regulated and subject to litigation, they will do something that is preventive such as stating in every policy that they have the right to do this. That does not benefit the consumer. This does not change the information that they have now. It simply isolates this one factor out of all the other business factors that may be considered and tell the consumer about that one thing.

**SEN. COCCHIARELLA** asked **Ms. Clifford** how would this bill address the concerns of consumers who have been canceled on one loss.

**Ms. Clifford** said that consumers are surprised when this happens to them. If they would know ahead of time, the element of surprise is not there. She disagreed with the point that every company will now put in this provision. This is a competitive market. Companies could choose as a marketing tool to say this is not our policy to cancel as a result of a sole loss. This could have companies inform consumers of why policies are canceled.

**SEN. COCCHIARELLA** then asked if it would be a good idea to add some of the other criteria to the bill so that some of the objection of the companies would go away. **Ms. Clifford** said that she didn't really know and would have to check with the department.

**SEN. MIKE SPRAGUE** asked **Ms. Clifford** that since the bill seemed somewhat impotent if there were some language that would make the

bill more effective. **Ms. Clifford** stated that there are regulations in statute at this time that regulate the companies and felt that at this time this was sufficient.

**{Tape : 1; Side : A; Approx. Time Counter : 19.8}**

**SEN. GLENN ROUSH** asked **Ms. Clifford** if many policies in Montana have been canceled because of this amendment that has been proposed. **Ms. Clifford** said that she did not know the answer.

**SEN. MCCARTHY** asked **Ron Ashabraner, State Farm**, for what reasons do insurance companies cancel policies? **Mr. Ashabraner** said this State Farm does not normally cancel for a single loss. They don't have reasons in the policy, but they will if the bill passes. They would cancel for fraud or if they find the insured has three DUI's, a multitude of travel violations, etc. The company would not cancel for a single loss without extenuating circumstances. The real concern here is the message that is being sent to the consumer. Will the message discourage the consumer from ever making a claim. A single loss will not get a policy canceled. If the insured did not pay the premiums, the policy would be canceled. A severe change in the risk of the insured would cancel a policy.

**SEN. MCCARTHY** asked if the above reasons are written into the policy. **Mr. Ashabraner** said that there is language that would allude to that but he didn't have a policy in hand and would get that for the Senator. It might be in the declaration part of the policy.

**Closing by Sponsor:**

**REP. PAVLOVICH** closed. I would like to know what might happen to cancel my policy. Would it be one claim against the company? I want to know up front. That way I can shop around. On page 4 concerning mid-term cancellation, that protects the consumer. It is a good policy for everyone. I hope you accept the amendments and pass the bill.

**{Tape : 1; Side : A; Approx. Time Counter : 26.2}**

**HEARING ON HB 171**

**Sponsor:** **REP. GARY MATTHEWS, HD 4, MILES CITY**

**Proponents:** **Claudia Clifford, Executive Assistant, State Auditor's Office**  
**Kelley Hubbard, MT Senior Citizens Assoc.**

**Gerry Bantz, AARP**

**Opponents: None**

**Opening Statement by Sponsor:**

**REP. GARY MATTHEWS, HD 4, MILES CITY.** This bill was requested by the State Auditor's Office. This bill gives the Montana Insurance Commissioner the authority to adopt rules pertaining to life insurance policy illustrations, annuity disclosure and sales illustrations. These rules must be designed to protect, educate and improve the ability to understand the basic features of life insurance policies and annuities. The intent of this bill is to provide rules so people can get accurate and complete information when they are considering the purchase of life insurance. In 1995, the National Association of Insurance Commissioners adopted the Life Insurance Illustration Model Regulations. Part of this bill is the Insurance Commissioner is not allowed to go on beyond the scope of these rules.

**Proponents' Testimony:**

**Claudia Clifford, Insurance Department, State Auditor's Office.**

**Frank Cote, Deputy Insurance Commissioner,** presented this bill in the House committee. Essentially, the NAIC often develops model laws for the states. That is because each state regulates insurance in their own way. This is one of those attempts to standardize across the country the illustrations that are presented to consumers who are purchasing a life insurance policy. The NAIC was concerned that people were being presented some potentially inaccurate examples. They are trying to standardize and regulate this aspect. We have asked for rulemaking authority to put into rule guidelines these illustrations. we are restricted by this bill to only put into rule what has been adopted by the NAIC. We are not going to be creative in what we do. Many other states are adopting these standardized guidelines. We want to be in conformity with other states. This is a good consumer protection bill. I have a fact sheet that I would like to hand out **EXHIBIT (bus50a04)**.

**Kelley Hubbard, MT Senior Citizens Assoc.** We would like to lend our support to this bill. We urge your support.

**Gerry Bantz, AARP.** We support this bill also. We feel consumers need protection.

**Opponents' Testimony: None**

**{Tape : 1; Side : A; Approx. Time Counter : 31.6}**

**Questions from Committee Members and Responses:**

**SEN. COCCHIARELLA** asked **Ms. Clifford** how the bill will work. Will the insurance companies have to submit their illustrations to your office for review or will you send out illustrations?

**Ms. Clifford** said they are going to adopt into rules general guidelines for companies to develop their illustrations. She is not sure exactly if the department will review all the illustrations or not. She would check on this for the Senator.

**SEN. COCCHIARELLA** said that she had worked in an insurance company and their illustrations and training were extremely different than anyone else's illustrations. She did want the information that was offered by Ms. Clifford. She wanted to know the procedure that would be taken by the department. It is a huge responsibility for the department to make sure that everyone is doing the right thing.

**Closing by Sponsor:**

**REP. MATTHEWS** closed. One of the reasons these illustrations came up was because of the class action lawsuit that happened to Met Life and New York Life. The NIAC got together and tried to adopt these model illustrations to help the insurance companies and show them what is good and bad. It might make it a bit tougher on insurance companies that try to exaggerate their illustrations. Since they have adopted these illustrations, 26 states have adopted them also. By April 24, three more states will have followed suit. Thank you for a good hearing.



**ADJOURNMENT**

Adjournment: 9:45 A.M.

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SEN. JOHN HERTEL, Chairman

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MARY GAY WELLS, Secretary

JH/MGW

**EXHIBIT (bus50aad)**